

TO CLARIFY THE TAX TREATMENT OF BONDS AND OTHER  
OBLIGATIONS ISSUED BY THE GOVERNMENT OF AMER-  
ICAN SAMOA

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MAY 15, 2003.—Ordered to be printed

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Mr. SENSENBRENNER, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 982]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 982) to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 982, a bill to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa, amends current law to exempt bonds issued by the government of American Samoa from local and State, income taxes. Currently, Federal law

exempts government bonds issued by States, territories and possessions from these taxes.

## BACKGROUND AND NEED FOR THE LEGISLATION

### FEDERAL LAWS GOVERNING AMERICAN SAMOA

American Samoa was defined by a treaty signed by the United States, Britain, and Germany in 1899.<sup>1</sup> Unlike other U.S. territories such as Guam, the Virgin Islands, and Puerto Rico, Congress has not provided American Samoa with an organic act establishing its governmental institutions. Rather, American Samoa is an “unincorporated” territory the administration of which was transferred from the Department of the Navy to the Department of the Interior in 1951. The Interior Secretary subsequently delegated authority to American Samoa to organize its own governmental institutions. While the territory ratified its own Constitution in 1966,<sup>2</sup> the Department of the Interior retains ultimate oversight over the territory.

### SAMOAN GOVERNMENT BONDS

Like most States and localities, American Samoa issues government bonds to fund a variety of public projects. However, its bond issuing activities are very limited. American Samoa’s last major bonding project was in 1988, when it raised \$22 million for a governmental office building.<sup>3</sup> Currently, the government of American Samoa owes about \$18 million in outstanding bonds.<sup>4</sup> Relevant sections of the Internal Revenue Code exclude interest from State and local bonds from Federal taxation. This exemption specifically applies to the “District of Columbia and any possession of the United States.”<sup>5</sup> This definition, however, does not explicitly encompass United States territories.

### LEGISLATION PERTAINING TO THE TAX TREATMENT OF BONDS ISSUED BY U.S. TERRITORIES OTHER THAN AMERICAN SAMOA

Bonds issued by almost all U.S. territories are exempt from Federal, State, and local taxes. For example, Federal statute provides that “all bonds issued by the government of Guam or by its authority shall be exempt . . . from taxation by the Government of the United States or by the government of Guam, or by any State or territory of any political subdivision thereof, or by the District of Columbia.”<sup>6</sup> Bonds issued by the government of the Northern Mariana Islands are also “exempt, as to principal and interest, from taxation by the United States, or by any State [or locality] . . . or the District of Columbia.”<sup>7</sup> In addition, Federal law provides that bonds issued by the government of the Virgin Islands or any of its municipalities are exempt from State and local taxes.<sup>8</sup> Finally, in-

<sup>1</sup> CIA: *The World Factbook, American Samoa*. <http://www.cia.gov/cia/publications/factbook/geos/aq.html>. [Visited February 26, 2002].

<sup>2</sup> 48 U.S.C. § 1661–1670 (2001).

<sup>3</sup> *Samoa Seeks Further Debt Authorization*, BOND BUYER, vol. 336, no. 31122, Friday, April 20, 2001.

<sup>4</sup> *American Samoan Governor Negotiates Refinancing of Loan*, PAC. ISLANDS BROAD. ASS’N NEWS SERV., Monday, December 27, 1999.

<sup>5</sup> 48 U.S.C. § 103(c)(2) (2001).

<sup>6</sup> 48 U.S.C. § 1423(a) (2000).

<sup>7</sup> *Id.* § 1801.

<sup>8</sup> *Id.* § 1403.

terest on bonds issued by the government of Puerto Rico are immune from State and Federal taxation.<sup>9</sup> H.R. 982 was introduced by Representative Eni Faleomovaega on February 27, 2003 to harmonize the taxing status of American Samoan government bonds with other States, territories, and possessions.

#### HEARINGS

There were no Committee hearings on H.R. 982 in the 108th Congress. In the 107th Congress, the Subcommittee on Commercial and Administrative Law held a hearing on identical legislation (H.R. 1448) on March 6, 2002. Rep. Eni Faleomovaega was the sole witness.

#### COMMITTEE CONSIDERATION

On May 7, 2003, the Committee met in open session and ordered favorably reported the bill H.R. 982, without amendment by voice vote, a quorum being present.

#### VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the Committee's consideration of H.R. 982.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### PERFORMANCE GOALS AND OBJECTIVES

H.R. 982 does not authorize funding. Therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the H.R. 3180, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

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<sup>9</sup>*Id.* § 745.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 9, 2003.*

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 982, a bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Matthew Pickford (for Federal costs), who can be reached at 226-2860, and Marjorie Miller (for the State and local impact), who can be reached at 225-3220.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

*H.R. 982—A bill to clarify the tax treatment of bonds and other obligations issued by the government of American Samoa.*

H.R. 982 would amend current law to make bonds issued by the government of American Samoa exempt from state, local, and territorial income tax. The bill would not affect Federal taxes, and CBO estimates that implementing H.R. 982 would have no impact on the Federal budget.

H.R. 982 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the cost of the mandate would be well below the threshold established in that act (\$59 million in 2003, adjusted annually for inflation). This mandate is a preemption of state and local taxing authority. The bill would exempt the interest on any bond issued by the government of American Samoa from State, local, and territorial taxes. Because American Samoa generally has only a few million dollars in bonds outstanding at any time, this preemption would not have a significant cost for State, local, or territorial governments. Enacting this bill would benefit the government of American Samoa by reducing its borrowing costs. The bill contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Matthew Pickford (for Federal costs), who can be reached at 226-2860, and Marjorie Miller (for the State and local impact), who can be reached at 225-3220. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8 of the Constitution.

## SECTION-BY-SECTION ANALYSIS AND DISCUSSION

*Section 1.* Clarification of Tax Treatment of Bonds and Other Obligations Issued by Government of American Samoa. Section 1 amends § 202(b) of Pub. L. No. 98–4545 (48 U.S.C. 1670) so that it exempts bonds issued by the government of American Samoa from State and local taxes. This exemption does not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

*Section 2.* Effective Date. Section 2 makes the legislation effective upon its enactment into law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SECTION 202 OF THE ACT OF OCTOBER 5, 1984**

(Public Law 98–454)

An Act to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

SEC. 202. (a) \* \* \*

[(b)(1) Except as provided in paragraph (2), any obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.]

[(2) Any obligation issued under subsection (a) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.]

[(3) For purposes of this subsection—

[(A) The term “State” included the District of Columbia.]

[(B) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.]

(b) *EXEMPTION OF ALL BONDS FROM INCOME TAXATION BY STATE AND LOCAL GOVERNMENTS.—*

*(1) IN GENERAL.—The interest on any bond or other obligation issued by or on behalf of the Government of American Samoa shall be exempt from taxation by the Government of American Samoa and the governments of any of the several States, the District of Columbia, any territory or possession of the United States, and any subdivision thereof.*

*(2) EXEMPTION APPLICABLE ONLY TO INCOME TAXES.—The exemption provided by paragraph (1) shall not apply to gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.*

\* \* \* \* \*

MARKUP TRANSCRIPT  
**BUSINESS MEETING**  
**WEDNESDAY, MAY 7, 2003**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

[Intervening business.]

Chairman SENSENBRENNER. The next item on the agenda, pursuant to notice, I now call up the bill H.R. 982, to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa for purposes of markup and move its favorable recommendation to the full House.

Without objection, the bill will be considered as read and open for amendment at any point.

[The bill, H.R. 982, follows:]

108TH CONGRESS  
1ST SESSION

# H. R. 982

To clarify the tax treatment of bonds and other obligations issued by the  
Government of American Samoa.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. FALEOMAVAEGA introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To clarify the tax treatment of bonds and other obligations  
issued by the Government of American Samoa.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CLARIFICATION OF TAX TREATMENT OF BONDS**  
4 **AND OTHER OBLIGATIONS ISSUED BY GOV-**  
5 **ERNMENT OF AMERICAN SAMOA.**

6 (a) EXEMPTION OF ALL BONDS FROM INCOME TAX-  
7 ATION BY STATE AND LOCAL GOVERNMENTS.—Sub-  
8 section (b) of section 202 of Public Law 98–454 (48  
9 U.S.C. 1670) is amended to read as follows:

1       “(b) EXEMPTION OF ALL BONDS FROM INCOME  
2 TAXATION BY STATE AND LOCAL GOVERNMENTS.—

3           “(1) IN GENERAL.—The interest on any bond  
4       or other obligation issued by or on behalf of the  
5       Government of American Samoa shall be exempt  
6       from taxation by the Government of American  
7       Samoa and the governments of any of the several  
8       States, the District of Columbia, any territory or  
9       possession of the United States, and any subdivision  
10      thereof.

11          “(2) EXEMPTION APPLICABLE ONLY TO INCOME  
12      TAXES.—The exemption provided by paragraph (1)  
13      shall not apply to gift, estate, inheritance, legacy,  
14      succession, or other wealth transfer taxes.”.

15 **SEC. 2. EFFECTIVE DATE.**

16      This Act shall apply to obligations issued after the  
17      date of the enactment of this Act.

○



Chairman SENSENBRENNER. The Chair recognizes the gentleman from Utah, Mr. Cannon, to explain the bill.

Mr. CANNON. Thank you, Mr. Chairman.

H.R. 982 amends Federal law to exempt bonds issued by the Government of American Samoa from State and local taxation. The legislation was introduced by Delegate Eni Faleomavaega of American Samoa. Government bonds issued by States and U.S. territories such as Guam, Puerto Rico, and the U.S. Virgin Islands currently enjoy this exemption. Thus the purpose of H.R. 982 is not to craft a special exception to a general rule but to harmonize the tax treatment of American Samoan and the bonds to enable the Samoan Government to better attend to its public—the public needs of its residents.

Identical legislation was reported by this Committee and approved by the House under suspension of the rules in the last Congress after receiving a hearing before the Subcommittee on Commercial and Administrative Law. I urge support of this non-controversial but necessary measure.

Thank you, Mr. Chairman. I yield back.

Chairman SENSENBRENNER. The gentleman from Virginia.

Mr. SCOTT. I have no comment, Mr. Chairman.

Chairman SENSENBRENNER. Without objection, all Members may include opening statements in the record at this point.

Are there amendments? Are there amendments? There are no amendments. A reporting quorum is still not present, and, without objection, the previous question will be ordered on reporting the bill favorably.

[Intervening business.]

The unfinished business now is the motion to report favorably the bill H.R. 982, to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa. A reporting quorum is present.

Those in favor of reporting the bill favorably will as your names are—will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the Chair is authorized to move to go to conference pursuant to House rules. Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days, under House rules, in which to submit additional dissenting, supplemental, or minority views.